IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

State of Rajasthan vs. Industrial & Labour Court,Udaipur.
(S.B.C.Writ Petition No663/99)

Date of Order :- 3rd November, 2006.

PRESENT

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. Basti Chand, Advocate for the petitioner.
Mr.P.R.Mehta, Advocate for the respondent.

The petitioner State of Rajasthan has filed this writ petition challenging the award dated 10.2.1998 passed by the Industrial Tribunal-cum-Labour Court,Udaipur(in short "the Tribunal"). Learned Tribunal has by the impugned award while answering the reference made to it by the appropriate government held that removal of the respondents no. 2 to 4 was not legal and therefore directed their reinstatement with 50% back wages and a payment of sum of Rs.1,000/- as cost of litigation and further directed that if the consequential

benefits are not paid to the workmen within one month, they shall be entitled to interest @ 12% p.a.

Learned counsel for the petitioner has cited two judgments of this Court passed in relation to the respondents-department also by the Labour Court,Udaipur on the same ground of non-compliance of Section 25-F of the Industrial Disputes Act and on which the impugned award was passed. According to him the award in both the aforesaid cases were upheld. He has also brought on record subsequent developments alongwith notice of the relevant order. He submitted that after reinstatement of the respondents in compliance of the award passed by the Labour Court, they were declared surplus by the petitioners by order dated 15.11.99 and directed to join the service in the office of Chief Engineer, Irrigation Department at Jaipur. Similar order dated 13.1.2000 was passed by the petitioners regarding posting of the respondents in the office of Executive Engineer, Irrigation Department, Division Udaipur wherefrom they were again sent back to their parent Department on 10.7.2000. The Department again issued an order on 20.7.2002 whereby the

respondents have been posted in the different sub divisions of the petitioner department. According to him the writ petition has become infructuous.

Learned counsel for the petitioner however assailing the validity on the ground that since the respondents did not complete 240 days, there was no question of violation of Section 25-F of the Act. According to him, in view of Section 25-N of the Act, Labour Court had no jurisdiction to entertain the matter. This very argument at the instance of the petitioner-department itself has been examined by two coordinate benches of this Court in S.B.C.Writ Petition Nos.705/99 and 706/99 and rejected. On merits also I find that the finding recorded by the learned Labour Court as to compliance of the provisions of Sections 25-F and 25-N of the Act was based on appreciation of evidence. In the circumstances therefore I do not find any good reason to take a different view than one taken in the aforesaid two judgments pertaining to the petitioner-department itself particularly when the respondents-workmen were reinstated in compliance of the award passed by the learned Labour Court and thereafter

declared surplus and were absorbed in another office wherefrom they have been posted elsewhere.

I do not find any good reason to take a different view than taken in the aforesaid two judgments by the coordinate benches in the facts of this case. However, in peculiar facts of the case, I do not deem it appropriate to allow the benefit of back wages and cost of litigation to the respondents-workmen as granted by the learned Labour Court. The direction of the Labour Court regarding back wages and cost of litigation as Rs.1000/- is set aside and award is accordingly modified. The writ petition is thus decided in terms of the order indicated above with no order as to costs.

(**MOHAMMAD RAFIQ),J.**